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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	:	
Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies	:	Docket No. 92-9

To: The Commission

COMMENTS OF SOUTHERN NATURAL GAS

Southern Natural Gas Company herewith submits the following comments in response to the Commission's First Report and Order and Third Notice of Proposed Rule Making in the matter of Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies.

INTRODUCTION

Southern Natural Gas, herein referred to as Southern, is an interstate pipeline company whose primary business is the purchase, sale, and transportation of natural gas. Southern has pipeline operations in Alabama, Florida, Georgia, Louisiana, Mississippi, South Carolina, Tennessee and Texas.

Southern operates a private microwave network which consists of 122 licensed stations operating in the 1850-2200 MHz fixed microwave band. This microwave network is used for voice, data, telemetry, and control. Telemetry data provided by the microwave network allows Southern to monitor pipeline pressures, temperatures, flow rates, and system loading.

Control data is used to monitor and control unmanned automated compressor stations as well as pipeline pressure and flow control valves. Almost all of Southern's voice communications, including radio and emergency communications, are carried by Southern's microwave network.

Southern commends the FCC on its fair and equitable First Report and Order concerning reallocation of the 2 GHz microwave band. We feel the plan to accommodate the existing users, of which we are one, is viable and will help maintain our large investment in our private communications system. The FCC should also be commended on its effort to work with the NTIA to secure some of the government's 2 GHz band for private microwave users.

DISCUSSION

The length of the transition period is a very tough issue to address. As an incumbent user, it would be our natural reaction to want to hold out for the longest transition period we could get. Even though we see the addition of personal communications services (PCS) as a benefit to our company in the long term, we must first protect our investment in the system in which we currently operate. We do not believe one transition period length should be held for all areas. We suggest having a shorter transition period (3 years) for major metropolitan areas and a somewhat longer one for rural areas (8 years). This type of plan would provide the following:

* Allows incumbents to develop transition plans for their microwave systems in the metropolitan areas, thereby narrowing the transition effort

significantly. We are not staffed to deal with a large amount of voluntary requests to relocate at the same time. Regardless of the amount of reimbursement, the relocation process will require time away from normal duties by engineers, attorneys, managers, technicians, and other various employees.

* Allows Southern to keep the majority of our system intact throughout its expectant life span.

* Ensures a more serious negotiation between emerging technology companies and incumbents in the rural areas. Many PCS companies may not focus their efforts to install PCS in rural areas until after the metropolitan areas are complete, much the same way cellular has progressed. A three year transition period would be over by this time; therefore, there may never be a chance for voluntary transition requiring incumbents to be relocated with the minimum compensation in rural areas.

The suggestion to provide a one year minimum time period for voluntary negotiations after the transition period is over is a valid proposal. One thing that many people may overlook is that even with the fair, fully funded relocation requirements stated in paragraph 24 of ET Docket 92-9, an incumbent will be faced with a large amount of work to be done. An incumbent will have to develop and provide training for communications technicians who will maintain the new equipment, spare parts levels will need to be purchased, and new

maintenance and troubleshooting procedures will need to be developed for the new equipment. A quick, involuntary relocation would make it very hard to have these types of necessary operational requirements in place before the equipment is installed.

Southern is not in favor of the Commission initiating a negotiated rule making proceeding. Indeed, Southern generally thinks the idea of comparable facilities will have to be defined on a case-by-case basis and that the parties will be better off from a negotiation standpoint if they have the opportunity to work out innovative designs for comparable results without the restrictions of a generic rule. Since any express definition of comparability is technological in nature rather than legal or substantive; issues of comparability may be able to be resolved within the context of the regulations proposed hereunder without having to develop new regulations. Ultimately, Southern believes that the definition of comparable facilities is so unique for each individual system that it will have to be developed rather than statutorily expressed.

Further, Southern does not believe that the issue of defining comparability meets the criteria for a negotiated rule making pursuant to the Negotiated Rule Making Act of 1990, 5 USC §581 et seq. (1992). First, given the myriad of interests affected by the proposed rule hereunder, there are not a limited number of identifiable interests that will be significantly affected by the rule. Second, for the same reason, it is not reasonably likely that a committee can be convened with a balanced representation of persons that will reach a consensus on a proposed rule or will not unreasonably delay a rule making. Also, a negotiated rule making proceeding could take time away from parties who would be better

off proceeding forward with voluntary negotiations during the transition period. For these reasons Southern believes that a negotiated rule making would not be beneficial in this context.

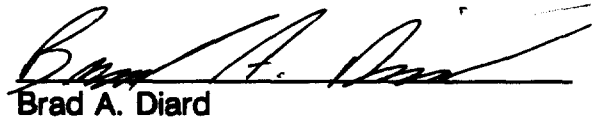
Southern is in favor of the rule providing a means for alternate dispute resolution where a specific dispute arises between parties during the involuntary relocation process. Specifically, the Commission could incorporate the procedures set forth in the Administrative Dispute Resolution Act (ADRA), 5 USC §518 et seq. (1992). Alternatively, the Commission could provide a special docket under which specific disputes could be raised either before the Commission itself or an administrative law judge. This procedure could involve oral argument or written proposals, but it probably would not be efficient to institute full hearings on such matters. Perhaps a comment period and reply comment period for all parties would be sufficient for parties to have a full opportunity to voice their concerns.

Southern believes that the Commission should specify that any conciliator, facilitator or mediator chosen by the parties would have the technological and engineering background to deal with the issues to be decided and that such appointee would have the acceptable neutral qualities defined in the ADRA. To the extent any arbitration or mediation procedures are established outside of the ADRA, Southern believes that they should retain federal jurisdiction and that the procedures should comply with the Federal Arbitration Act, 9 USC §1 (1987). Finally, these types of alternative dispute procedures should be established for specific disputes that cannot be resolved by the parties, particularly issues which may arise after the emerging technology licensee has made its proposal for relocation

to the existing licensee. To the extent the parties elect to pursue mediation as a means of resolution, Southern believes that such process would be best served if it began at the outset of the involuntary relocation negotiations rather than at the end of said negotiations.

Respectfully submitted,

SOUTHERN NATURAL GAS COMPANY



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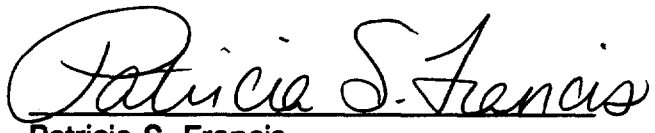

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